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EXAMINER

KHAN, AMINA S

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1764

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/584,817
Filing Date: June 27, 2006
Appellant(s): CZYZEWSKI ET AL.

James E. Howard
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed November 16, 2010 appealing from the Office action mailed June 18, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 6-14 are pending.

Claims 6,7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaverien (US 3,456,462).

Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaverien (US 3,456,462).

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

US 3,456,462

SCHAUERLIEN

6-1969

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Art Unit: 1764

1. Claims 6,7 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaverien (US 3,456,462).

Schaverien teaches a method of washing clothes in a domestic washing machine comprising adding water to the apparatus, activating water heater to raise water temperature to the desired temperature, starting motor and agitator for 5 minutes, stopping motor and emptying fluid, adding cold water for rinse, activating the motor and agitator for 5 minutes and emptying the apparatus (column 3, line 65 to column 4, line 15; claim 1). Schaverien further teaches that heater for the water is activated when the water filling is done wherein a thermostat monitors the temperature and turns off the heater when the desired temperature has been reached (column 3, lines 20-40).

Accordingly, the teachings of Schaverien are sufficient to anticipate the material limitations of the instant claims.

2. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaverien (US 3,456,462).

Schaverien is relied upon as described in paragraph 1.

Schaverien is silent as to the standard temperature of the water.

Schaverien teaches that if hot water is not available to add to the apparatus, an electric heater may be used to heat the water to the desired temperature through the control of a thermostat (column 3, lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention is made that the temperature of cold or tap water would fall in the range of 10-

Art Unit: 1764

15°C as instantly claimed. Schaverien recognizes that hot water may not be available and that cold water is required for rinsing therefore nothing unobvious is seen in raising the temperature of cold or tap water from the standard value to the desired laundering temperature.

Since the instant specification is silent to unexpected results, the standard value is not considered to confer patentability to the claim. As energy conserved is a variable that can be modified by adjusting the standard value, the standard value would have been considered a result effective variable by one having ordinary skill in the art at the time the invention was made. As such, without showing unexpected results, the claimed standard value cannot be considered critical. Accordingly, one of ordinary skill in the art at the time the invention was made would have optimized, by routine experimentation, the standard value such that the time required for heating could be minimized and, thereby, energy can be conserved (*In re Boesch*, 617 F.2d. 272, 205 USPQ 215 (CCPA 1980)), since it has been held that where the general conditions of the claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. (*In re Aller*, 105 USPQ 223).

(10) Response to Argument

3. Response to argument “A) The Rejection of Claims 6,7 and 9-13 Under 35 U.S.C. 102(b) As Being Anticipated By Schaverien US Patent No. 3,456,462 Is Not Proper”

The appellant argues that claim 6 of the present invention provides for two heating phases, one in a typical washing process and one in a delay period before the start of the washing process and that Schaverien does not teach heating during the typical washing process. Appellant further argues that the typical washing process is configured to achieve the benefits of the so-called Sinnersch cycle. The appellant further states that Schaverien does not hint at the desirability of performing a washing process to achieve the benefits of this cycle having a targeted sum for the factors of temperature, time, mechanics, and chemistry which require a heating input to bring the filling water up to a desired start temperature and another heating input during the fixed time length cycle. Appellant points to figure 2 of the instant specification and argues that a thermal input from the end of the delay phase to when a higher temperature is reached (t_{1k}) indicates the second heating step and that Schaverien does not provide for this second heating input.

The examiner argues that appellant's claims do not require a second heating input rather only disclose a single heating input. Claims 6 and 11 describe a single heating phase, the delay phase ($t_{OK}-t_{OS}$), where the heating device is switched on when a temperature sensor indicates a washing machine has a filling water temperature of less than standard value and that this occurs before the beginning of the washing process and the mechanics phase. Nothing in the claim requires heating during the washing phase since the standard value has been reached prior to the wash cycle commencing. Claim 11 further recites turning off the heating device when the predetermined washing temperature is reached and that the washing phase does not

Art Unit: 1764

commence until the initial water temperature is detected, the heating device is activated and the delay phase is performed. Schaverien clearly teaches activating a heater to reach a desired washing temperature and deactivating the heater when the desired washing temperature is reached (column 3, lines 20-45;65-75). Accordingly, the claimed limitations are met.

Appellant's arguments regarding Figure 2 of the instant application and the thermal input lasting from the end of the delay phase to when a higher temperature is reached (t_{1k}) indicates the second heating step are moot since the recited heating from the end of the delay phase to t_{1k} are present nowhere in the claims. Appellant's arguments regarding the benefits of the Sinnersch cycle and the cycle itself are also moot since these are also not present in the claims. The examiner argues that Schaverien teach all the active method steps of the instant claims and therefore, the rejection is maintained.

4. Response to argument "B) The Rejection of Claims 8 and 14 Under 35 U.S.C. 103(a) As Unpatentable Over Schaverien US Patent No. 3,456,462 Is Not Proper"

The appellant does not present further arguments with respect to the 35 U.S.C. 103(a) rejection but rather states that Schaverien does not provide guidance with respect to performing the washing process as recited in independent claims 6 and 11. The examiner reiterates arguments that were recited in paragraph 4.

Art Unit: 1764

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Amina Khan/

Examiner, Art Unit 1764

/Vasu Jagannathan/
Supervisory Patent Examiner, Art Unit 1764

Conferees:

/Vasu Jagannathan/
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